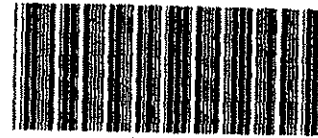


EXHIBIT “C”



D50475235

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

DARLINGTON AMADASU	:	Case No. A0106671
Plaintiff,	:	Judge Mark R. Schweikert
vs.	:	
UNITED DAIRY FARMERS	:	<u>MOTION TO DISMISS</u>
Defendant	:	

Now comes the Defendant, United Dairy Farmers, and moves this Court for an Order dismissing the within action pursuant to the provisions of Rule 37 of the Ohio Rules of Civil Procedure, for the reasons set forth in the accompanying Memorandum.

MEMORANDUM

Counsel for the Defendant scheduled by Notice the deposition of the Plaintiff to take place on Tuesday, May 7, 2002. The Notice was sent to the Plaintiff on April 17, 2002. At the appointed time of the deposition, the Plaintiff failed to appear. The Plaintiff did advise counsel for the Defendant, prior to the deposition, that he was not going to appear. In response to this, counsel for the Defendant wrote to the Plaintiff and told him that if he did not appear, he would seek appropriate sanctions from the Court.

In order to understand how the case got to this posture, and appreciate the necessity for filing a Notice for the deposition of the Plaintiff, a brief history is necessary.

After suit was filed, counsel for the Defendant wrote to the Plaintiff and asked him to contact him so that they could select a mutually convenient date to schedule his deposition. A copy of counsel's December 27, 2001 correspondence is attached hereto as Exhibit 1.

The Plaintiff called and advised counsel for the Defendant that he did not want to schedule his deposition until the scheduling conference with the Court on March 5, 2002. A copy of counsel for the Defendant's correspondence of January 9, 2002 to the Plaintiff confirming this position of the Plaintiff is attached hereto as Exhibit 2.

When the case was before the Court on March 5, 2002 for a scheduling conference, counsel for the Defendant again asked to schedule the Plaintiff's deposition, but at that time the Plaintiff stated that he was going to file a supplemental complaint, and did not want to schedule his deposition until after that occurred. At that time the Court set another scheduling conference for April 4, 2002.

On April 4, 2002 counsel for the Defendant again asked for the opportunity to schedule the Plaintiff's deposition, but at that time the Plaintiff stated that he would not allow his deposition to be taken until the Court had ruled on his motion for an amended complaint.

As the Plaintiff had refused all efforts to schedule his deposition, counsel for the Defendant filed a Notice for his deposition and sent it to the Plaintiff via correspondence of April 17, 2002, a copy of which is attached hereto as Exhibit 3.

In response to this, the Plaintiff sent a letter saying he was unavailable for the deposition as noticed. A copy of the Plaintiff's correspondence of April 29, 2002 is attached hereto as Exhibit 4.

In response to this counsel for the Defendant wrote the Plaintiff on May 2, 2002 indicating that if he didn't appear he would seek appropriate sanctions from the Court. A copy of this correspondence is attached hereto as Exhibit 5.

Counsel for the Defendant has attempted to accommodate the Plaintiff, however, every time the question is put to the Plaintiff about scheduling his deposition he has some excuse as to why it cannot be scheduled. As a result of this, the Defendant had no alternative but to schedule the deposition by Notice.

This Plaintiff has filed multiple *pro se* lawsuits in various Courts, and in those other lawsuits, as in this one, he frustrates attempts at discovery. By way of example and background, we attach hereto a copy of the Defendant's Motion to Dismiss filed in the case of Darlington Amadasu v. The Health Alliance of Greater Cincinnati in the United States District Court, Southern District of Ohio. You will note that counsel in that case encountered the same difficulties as counsel in this case has encountered.

For the reasons set forth herein, it is respectfully submitted that the Plaintiff's case should be dismissed. Rule 37 of the Ohio Rules of Civil Procedure provides a method for scheduling the deposition of a party to the litigation. In the case of Dafco v. Reynolds, 9 Ohio App. 3rd 4; 457 NE 2d 916, a case in which the Plaintiff failed to appear for a properly noticed deposition, the Court dismissed the suit and stated in the syllabus:

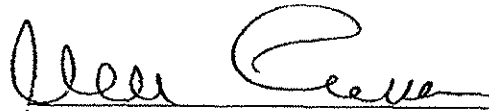
"1. Civ. R. 37 (D) provides a one-step method for immediate imposition of sanctions when a party fails to appear at a properly noticed deposition. . .

."

For the reasons set forth herein, it is respectfully submitted that the Plaintiff's Complaint be dismissed.

The transcript of the attempted deposition will be filed separately with the Court.

Respectfully Submitted,



William M. Cussen (0009485)

Lindhorst & Dreidame

Attorneys for Defendant, United Dairy Farmers

312 Walnut Street, Suite 2300

Cincinnati, OH 45202

(513) 421-6630

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Darlington Amadasu, Plaintiff, 2680 Wendee Drive, #2303, Cincinnati, Ohio 45238 by regular U.S. mail this 10 day of May, 2002.



William M. Cussen

Attorney at Law

LINDHORST & DREIDAME

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(513) 345-5762

December 27, 2001

Darlington Amadasu
2680 Wendee Drive, #2303
Cincinnati, Ohio 45238

IN RE: Darlington Amadasu v. United Dairy Farmers
Case No. A0106671
Our File No. 226/0220

Dear Mr. Amadasu:

I would like to take your deposition and would appreciate it if you would give me a call so that we may select a mutually convenient date.

Very truly yours,

LINDHORST & DREIDAME

William M. Cussen

WMC/kjs



LINDHORST & DREIDAME

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January 9, 2002

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Darlington Amadasu
2680 Wendee Drive, #2303
Cincinnati, Ohio 45238

IN RE: Darlington Amadasu v. United Dairy Farmers
Case No. A0106671
Our File No. 226/0220

Dear Mr. Amadasu:

This will confirm our discussion of January 7, 2002.

You called me in response to my December 27, 2001 correspondence asking to select a date for your deposition. You indicated that you wanted to wait until the scheduling conference with the court on March 5, 2002. I advised that we should schedule your deposition prior to that time, and you then indicated that your schedule was fully booked up between now and March 5, 2002, and you were therefore unavailable before that date for a deposition.

If this does not accurately reflect the discussion, please clarify.

Very truly yours,

LINDHORST & DREIDAME

William M. Cussen

WMC/kjs



LINDHORST & DREIDAME

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April 17, 2002

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Mr. Darlington Amadasu
2680 Wendee Drive #2303
Cincinnati, Ohio 45238

IN RE: Darlington Amadasu v. United Dairy Farmers
Case No. A0106671
Our File No. 226/0220

Dear Mr. Amadasu:

Please find enclosed the Defendant's Answers to your Interrogatories in the above-captioned matter.

As you are aware, I have been attempting to take your deposition for over four months and you have resisted all such efforts. I am therefore enclosing herewith a copy of the Notice for your Deposition for Tuesday, May 7, 2002 beginning at 9:30 a.m. in my office.

Very truly yours,

LINDHORST & DREIDAME

William M. Cussen

WMC/kjs

Enclosures



300973.1

BY Fax (513-421-0212

2680 Wendee Drive; #2303
Cincinnati, OH 45238
4/29/02

Mr. William M. Cussen
312 Walnut Street; Ste 2300
Cincinnati, OH 45202

Dear Mr. Cussen:

Re: Amadasu v. United Dairy Farmers; Case No. A0106671; Your File No. 226/0220

DEPOSITION:

I wonder why you unilaterally set deposition date for Tuesday, May 7, 2002 knowing fully well that I will not be available in May 2002. At the last court date attendance on or about 4/4/02 when you and I were finding a mutually agreeable next court date I told you that I would not be available in whole of May 2002. Your unilaterally scheduling deposition date, place and time without consultation with me to find out my convenient date, place and time was in bad faith.

Please be advised that I am still unavailable in May 2002. I hereby suggest any one of these dates for the deposition: JULY 15, 16, or 17, 2002 please advise me in writing your convenient chosen dates from among these suggested dates.

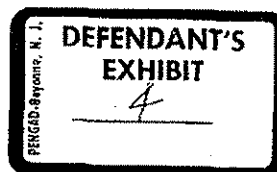
NOTICE: DEFENDANT' FAILURE TO ANSWER PLAINTIFF'S REASONABLE INTERROGATORIES

The defendant' Answers to Plaintiff's first set of Interrogatories are incomplete, evasive, and non answer, and the objections to some of the interrogatories were not accompanied with reasons therefor, thereby constitute failure to answer reasonable propounded interrogatories warranting motion to compel under Rule 37 et seq. The following numbered interrogatories: #2,3, 4, 5, 6, 7, 8, 9, 10,11, 13, 14, 15, 16, 17, 18, 20, 22, 23, 24, 26, 27, 28, 30 (did you check your accounting and or receipt book whether plaintiff paid or not?), 31, 32, 33, must be answered and or supplemented within 15 days to avoid motion to compel.

Sincerely,



Darlington Amadasu,
Plaintiff, Pro Se.



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May 2, 2002

Mr. Darlington Amadasu
2680 Wendee Drive #2303
Cincinnati, Ohio 45238

IN RE: Darlington Amadasu v. United Dairy Farmers
Case No. A0106671
Our File No. 226/0220

Dear Mr. Amadasu:

I have asked to take your deposition on at least four different occasions and each time you have had some excuse as to why we could not schedule the deposition. Because you failed to agree to a date for a deposition, I had no alternative but to set the deposition by Notice.

I plan to proceed with your deposition as scheduled on May 7, 2002 beginning at 9:30 a.m. in our office. If you fail to appear I shall seek appropriate sanctions from the court.

As to our Interrogatory Answers, I believe that we have responded to all of the Interrogatories. If there are some particular issues that you have with some of the responses, we can discuss this further following your deposition.

Finally, your April 29, 2002 letter was sent to me by fax on April 30, 2002. I had previously asked you for your fax number pursuant to the provisions of Rule 10 of the Rules of the Court of Common Pleas of Hamilton County, Ohio. When we were in court on April 4, 2002, you advised me that you did not have a fax number. If this has changed, please supply me with your fax number pursuant to the provisions of the local rules.

Very truly yours,

LINDHORST & DREIDAME

William M. Cussen

WMC/kjs

